

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 61st LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON JUDICIARY**

**Call to Order:** Vice Chairman Peterson, on March 30, 2009 at 9:02  
A.M., in Room 137 Capitol

#### **ROLL CALL**

**Members Present:**

Rep. Deborah Kottel, Vice Chairman (D)  
Rep. Ken Peterson, Vice Chairman (R)  
Rep. Arlene Becker (D)  
Rep. Gerald Bennett (R)  
Rep. Anders Blewett (D)  
Rep. Robyn Driscoll (D)  
Rep. Bob Ebinger (D)  
Rep. David Howard (R)  
Rep. Krayton Kerns (R)  
Rep. Margaret MacDonald (D)  
Rep. Edith (Edie) McClafferty (D)  
Rep. Mike Menahan (D)  
Rep. Michael More (R)  
Rep. Keith Regier (R)  
Rep. Bob Wagner (R)  
Rep. Wendy Warburton (R)

**Members Excused:** Rep. Diane Sands (D); Rep. Ron Stoker,  
Chairman (R)

**Members Absent:** None

**Staff Present:** Jennifer Eck, Committee Secretary  
David Niss, Legislative Branch

**Audio Committees:** These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

**Committee Business Summary:**

Hearing & Date Posted: SB 263, 3/27/2009

Executive Action: SB 476, HJ 31, SB 221, SB 236,  
SB 263

**HEARING ON SB 263**

**Opening Statement by Sponsor:**

00:01:02 Sen. Jim Shockley (R), SD 45, opened the hearing on  
SB 263, Revise public defender laws.

**Proponents' Testimony:**

00:10:59 Marty Lambert, Montana County Attorneys Association  
00:13:25 Jim Haynes, District Court Judge, Ravalli County

**Opponents' Testimony:** None

**Informational Testimony:**

00:18:20 Harry Freeborn, Administrative Director, Office of the  
State Public Defender

**Questions from Committee Members and Responses:**

00:20:56 Rep. Kottel  
00:22:19 Sen. Shockley  
00:22:25 Rep. Kottel  
00:22:30 Sen. Shockley  
00:24:07 Rep. Kottel  
00:24:37 Sen. Shockley  
00:25:06 Rep. Kottel  
00:25:10 Sen. Shockley  
00:25:13 Rep. Kottel  
00:25:59 Sen. Shockley  
00:26:36 Rep. Kottel  
00:26:40 Sen. Shockley  
00:26:48 Rep. Kottel  
00:26:53 Rep. Wagner  
00:27:26 Mr. Lambert  
00:28:00 Rep. Wagner  
00:28:37 Mr. Lambert  
00:28:49 Rep. Wagner  
00:28:59 Mr. Lambert  
00:29:16 Rep. Wagner  
00:29:18 Rep. Howard  
00:29:31 Mr. Freeborn  
00:29:34 Rep. Howard  
00:29:40 Mr. Freeborn  
00:30:04 Rep. Howard  
00:30:19 Mr. Freeborn  
00:30:30 Rep. Howard

00:30:31 Mr. Freeborn  
00:30:39 Rep. Howard  
00:30:53 Mr. Freeborn  
00:30:58 Rep. Howard  
00:31:04 Mr. Freeborn  
00:31:34 Rep. Howard  
00:31:41 Mr. Freeborn  
00:32:48 Rep. Howard  
00:33:06 Mr. Freeborn  
00:33:25 Rep. Menahan  
00:35:16 Mr. Freeborn  
00:37:28 Rep. Menahan  
00:38:28 Mr. Freeborn  
00:38:51 Rep. Menahan  
00:39:16 Mr. Freeborn  
00:39:28 Rep. Menahan  
00:40:01 Mr. Freeborn  
00:40:26 Rep. Menahan  
00:41:05 Mr. Freeborn  
00:41:40 Vice Chairman Peterson  
00:41:44 Larry Murphy, Contract Manager, Office of the State  
Public Defender  
00:41:58 Rep. Menahan  
00:42:33 Mr. Murphy  
00:44:11 Vice Chairman Peterson  
00:44:14 Rep. MacDonald  
00:44:25 Vice Chairman Peterson  
00:44:27 Rep. MacDonald  
00:44:40 Sen. Shockley  
00:46:00 Vice Chairman Peterson  
00:46:17 Mr. Freeborn  
00:46:18 Vice Chairman Peterson  
00:46:58 Mr. Freeborn  
00:47:41 Vice Chairman Peterson  
00:47:57 Mr. Freeborn  
00:48:42 Vice Chairman Peterson  
00:48:51 Sen. Shockley  
00:48:53 Vice Chairman Peterson  
00:50:06 Sen. Shockley  
00:51:13 Vice Chairman Peterson  
00:51:28 Sen. Shockley  
00:51:59 Vice Chairman Peterson  
00:52:03 Sen. Shockley  
00:52:35 Vice Chairman Peterson  
00:52:52 Sen. Shockley  
00:53:14 Vice Chairman Peterson  
00:53:30 Sen. Shockley  
00:53:51 Vice Chairman Peterson  
00:54:00 Sen. Shockley  
00:54:15 Vice Chairman Peterson

**Closing by Sponsor:**

00:54:22 Sen. Shockley  
00:59:23 Vice Chairman Peterson  
00:59:57 Recess  
01:14:24 Reconvene  
01:14:24 Rep. Sands joined the meeting.

**EXECUTIVE ACTION ON SB 263**

01:14:46 **Motion:** Rep. Kottel moved that **SB 263 BE CONCURRED IN.**

**Discussion:**

01:14:49 Vice Chairman Peterson  
01:14:54 Rep. Menahan  
01:18:07 Vice Chairman Peterson  
01:18:10 Rep. Menahan  
01:18:22 Mr. Niss  
01:18:35 Rep. Menahan  
01:18:46 Mr. Niss  
01:18:56 Rep. Menahan  
01:18:59 Mr. Niss  
01:19:09 Vice Chairman Peterson  
01:19:14 Mr. Niss  
01:20:27 Rep. Menahan  
01:21:07 Mr. Niss  
01:22:07 Rep. Menahan  
01:22:41 Mr. Niss  
01:22:53 Rep. Menahan  
01:23:08 Mr. Niss  
01:23:28 Rep. Menahan  
01:24:07 Rep. Kottel  
01:26:27 Rep. Menahan  
01:26:33 Vice Chairman Peterson postponed Executive Action on  
SB 263 until later in the meeting.

**EXECUTIVE ACTION ON SB 476**

01:26:45 **Motion:** Rep. Blewett moved that **SB 476 BE BROUGHT OFF  
THE TABLE.**  
01:27:19 Vice Chairman Peterson

01:27:42 **Vote:** Motion carried 11-6 by voice vote with Rep. Menahan, Rep. Warburton, Rep. Howard, Rep. Kerns, Rep. Wagner, and Rep. Bennett voting no.

01:28:20 **Motion:** Rep. Blewett moved that **SB 476 BE CONCURRED IN.**

**Discussion:**

01:28:30 Rep. Blewett  
01:29:53 Vice Chairman Peterson  
01:30:00 Rep. Howard  
01:30:56 Rep. Wagner  
01:31:17 Vice Chairman Peterson  
01:31:54 Rep. Blewett called the question.  
01:31:55 Chairman Stoker joined the meeting and resumed his role as chair of the committee.  
  
01:31:59 **Vote:** Motion carried 12-6 by roll call vote with Rep. Kerns, Rep. Bennett, Rep. Wagner, Rep. Howard, Rep. Warburton, and Rep. Menahan voting no.  
  
01:33:58 Rep. Driscoll  
01:34:20 Rep. Menahan  
01:34:28 Chairman Stoker

**EXECUTIVE ACTION ON HJ 31**

01:35:05 **Motion:** Rep. Peterson moved that **HJ 31 DO PASS.**

**Discussion:**

01:35:10 Chairman Stoker  
01:35:19 Rep. Kerns  
01:35:37 Rep. Sands  
01:36:35 Rep. Bennett  
01:36:39 Rep. MacDonald  
01:37:55 Chairman Stoker  
01:37:59 Rep. Bennett  
01:38:28 Rep. Peterson  
01:39:10 Rep. Warburton  
01:39:53 Rep. Peterson called the question.  
  
01:39:58 **Vote:** Motion carried 13-5 by roll call vote with Rep. Sands, Rep. MacDonald, Rep. Driscoll, Rep. Becker, and Rep. Blewett voting no.  
  
01:40:46 Chairman Stoker

**EXECUTIVE ACTION ON SB 221**

01:41:19 **Motion:** Rep. Peterson moved that **SB 221 BE CONCURRED IN.**

**Discussion:**

01:41:32 Rep. MacDonald

01:41:36 Mr. Niss

**EXHIBIT**(juh70a01)

**EXHIBIT**(juh70a02)

01:42:16 **Motion:** Rep. Menahan moved that **SB 221 BE AMENDED**  
(refer to Exhibit 1).

01:42:30 Mr. Niss

01:42:39 Rep. Menahan

01:43:35 Rep. Kottel called the question.

01:43:39 Rep. Peterson

01:44:21 Chairman Stoker

01:44:40 **Vote:** Motion carried 10-8 by roll call vote with Rep. Peterson, Rep. Kerns, Rep. Bennett, Rep. More, Rep. Wagner, Rep. Howard, Rep. Warburton, and Rep. Stoker voting no.

01:45:36 **Motion:** Rep. Peterson moved that **SB 221 BE CONCURRED IN AS AMENDED.**

01:45:45 **Motion:** Rep. Menahan moved that **SB 221 BE AMENDED**  
(refer to Exhibit 2).

**Discussion:**

01:45:58 Chairman Stoker

01:46:02 Rep. Menahan

01:47:18 Chairman Stoker

01:47:21 Rep. Sands

01:47:42 Rep. Menahan

01:48:12 Chairman Stoker

01:48:16 Rep. Warburton

01:48:39 Rep. Peterson called the question.

01:48:44 Chairman Stoker

01:49:01 **Vote:** Motion carried 13-5 by roll call vote with Rep. Peterson, Rep. Kerns, Rep. Bennett, Rep. Howard, and Rep. Warburton voting no.

01:49:50 **Motion:** Rep. Peterson moved that **SB 221 BE CONCURRED IN AS AMENDED.**

**Discussion:**

01:49:56 Chairman Stoker  
01:50:09 Rep. Kerns  
01:51:04 Rep. Bennett  
01:51:32 Rep. MacDonald  
01:53:04 Rep. More  
01:54:16 Rep. Peterson called the question.

01:56:06 **Vote:** Motion failed 7-11 by roll call vote with Rep. Kottel, Rep. Sands, Rep. MacDonald, Rep. Becker, Rep. Driscoll, Rep. Blewett, and Rep. Menahan voting aye.

01:57:02 Chairman Stoker

01:57:04 **Motion/Vote:** Rep. Peterson moved that **SB 221 BE TABLED AND THE VOTE REVERSED.** Motion carried 16-2 by voice vote with Rep. MacDonald and Rep. Menahan voting no.

01:57:30 Chairman Stoker

**EXECUTIVE ACTION ON SB 236**

01:58:02 **Motion:** Rep. Peterson moved that **SB 236 BE CONCURRED IN.**

**Discussion:**

01:58:07 Chairman Stoker  
01:58:12 Rep. More  
02:03:41 Chairman Stoker  
02:03:45 Rep. Kottel  
02:08:24 Rep. Warburton  
02:09:50 Rep. Peterson  
02:14:36 Rep. Wagner  
02:18:49 Rep. Menahan  
02:25:26 Rep. Regier  
02:27:49 Rep. Peterson called the question.  
02:28:04 Rep. MacDonald  
02:30:51 Chairman Stoker

02:32:15 **Vote:** Motion failed 8-10 by roll call vote with Rep. Kottel, Rep. Sands, Rep. MacDonald, Rep. Ebinger, Rep. Driscoll, Rep. McClafferty, Rep. Blewett, and Rep. Menahan voting aye.

02:33:27 **Motion:** Rep. Peterson moved that **SB 236 BE TABLED AND THE VOTE REVERSED.**

02:33:38 Chairman Stoker

02:33:44 Rep. Peterson

02:33:47 **Vote:** Motion carried 11-7 by roll call vote with Rep. Kottel, Rep. Sands, Rep. MacDonald, Rep. Ebinger, Rep. Driscoll, Rep. Blewett, and Rep. Menahan voting no.

02:34:43 Chairman Stoker

**EXECUTIVE ACTION ON SB 263**

02:35:10 **Motion:** Rep. Menahan moved that **SB 263 BE CONCEPTUALLY AMENDED** (refer to audio recording).

02:37:00 Rep. More

02:37:09 Rep. Menahan

02:37:49 Chairman Stoker

02:38:00 Rep. Menahan

02:39:36 Chairman Stoker

02:39:42 Rep. Peterson called the question.

02:39:46 Chairman Stoker

02:39:52 **Vote:** Motion carried 16-2 by voice vote with Rep. Driscoll and Rep. Kottel voting no.

02:40:07 **Motion/Vote:** Rep. Peterson moved that **SB 263 BE CONCURRED IN AS AMENDED.** Motion carried 16-2 by voice vote with Rep. Driscoll and Rep. Kottel voting no.

02:40:52 Chairman Stoker



**ADJOURNMENT**

02:41:51 Adjournment

---

Jennifer Eck, Secretary

je

**Additional Exhibits:**

**EXHIBIT(juh70a03)** Written testimony from Mary Lou Randour, Ph.D.  
in support of SB 221

**EXHIBIT(juh70a04)** Letter and article in opposition to SB 221  
from Cheryl Moldenhauer

**EXHIBIT(juh70a05)** Letter from the Rosebud County Commissioners  
in support of SB 221

Additional Documents:

**EXHIBIT(juh70aad.pdf)**